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5		,
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9	UNITED STATES DISTRICT COURT	
10	CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION	
11	 FRANK JOSEPH CARDERELLA,) CASE NO. CV 09-8299 R (MANx)
12	Plaintiff,)
13	vs.) DECLARATION OF FRANK JOSEPH) CARDERELLA IN SUPPORT OF
14	Y 5.) PLAINTIFF'S MOTION FOR ORDER
15	JANET NAPOLITANO, as Secretary of the Department of Homeland Security) IMPOSING ISSUE-RELATED AND) EVIDENTARY SANCTIONS AGAINST
	Department of Homeland Security) DEFENDANT
16	Defendant.)
17) Date: October 12, 2010
18) Time: 10:00 a.m.
10) Ctrm: Spring Street Courthouse
19	,) 312 North Spring Street, Ctrm 8
20) Los Angeles, California 90012
20) Trial Date: October 19, 2010
21) Time: 9:00 a.m.
22) Ctrm: Spring Street Courthouse
) 312 North Spring Street, Ctrm 8
23) Los Angeles, California 90012
24) Honorable Manuel L. Real
25)
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27	1. I am the Plaintiff in the above-referenced matter. I have personal knowledge of the following and if called as a witness, I could and would testify competently thereto.	
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	DECLARATION OF FRANK JOSEPH CARDERI	

- 2. This declaration is made in support of Plaintiff's Motion for Order Imposing Issue-Related/Evidentiary Sanctions against Defendant as a consequence of Defendant's destruction of evidence critical to the establishment of my claim for discrimination.
- 3. On August 30, 2010 I signed and filed in support of my Opposition to Defendant's Motion for Summary Judgment a Declaration of Frank Carderella, a true and correct copy of which is attached to the Plaintiff's Request for Judicial Notice in Support of Motion for Order Imposing Issue-Related/Evidentiary Sanctions filed concurrently herewith. In addition to the facts set forth in my declaration of said date which are incorporated herein by reference as though set forth in full, the following facts are submitted in support of Plaintiff's Motion for Order Imposing Issue-Related/Evidentiary Sanctions against Defendant.
- 4. On September 15, 1996, I determined from INS that I had not been selected for the vacant DEO position.
- 5. With the exception of a copy of my application and my discrimination complaint, at no time whatsoever, have I had possession of any documents relating to the filing of the DEO vacancies in 1996. Based on the declarations of Beverly K. Wilson and Linda M. Smithson filed by Defendant in this action on August 18, 2010, of which this court is requested to take judicial notice in connection with this motion, I understand that Defendant was in sole possession of the documents relating to the filling of the DEO vacancies and that Defendant destroyed the same purportedly in accordance with its two year retention policy. As a result of Defendant's destruction of these records and files, I do not have the records and files to support my discrimination claim which is obviously extremely prejudicial to my ability to prosecute my claim for discrimination.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed this 10 for September of 2010.

FRANK JOSEPH CARDERELLA